Manitoba

Annual Report 2001 - 2002

Seizure and Impoundment Registry

Includes 10% post-consumer waste

102-06167/

ATTORNEY GENERAL
MINISTER OF JUSTICE

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable Peter M. Liba, C.M.
Lieutenant-Governor of Manitoba

MAY IT PLEASE YOUR HONOUR:

It is my privilege to present, for the information of Your Honour, the Annual Report of the Seizure and Impoundment Registry for the year ending March 31, 2002.

Respectfully submitted,

Honourable Gord Mackintosh
Minister of Justice
Attorney General

Manitoba

Deputy Minister of Justice
and Deputy Attorney-General

Room 110
Legislative Building
Winnipeg MB R3C 0V8

Honourable Gord Mackintosh
Minister of Justice
Attorney General of Manitoba
Room 104 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Sir:

I submit for your approval the Annual Report of the Seizure and Impoundment Registry for the year ending March 31, 2002.

Respectfully submitted,

Bruce A. MacFarlane, Q.C.
Deputy Minister of Justice and
Deputy Attorney General

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Introduction

In November 1989, the Government of Manitoba enacted legislation to reduce the negative social impacts associated with impaired and suspended drivers.

Under this legislation, peace officers were given expanded powers to seize and impound a motor vehicle when they had reason to believe it was being operated by a person who was suspended, disqualified or otherwise prohibited from driving in Manitoba.

Since November 1989, the Vehicle Impoundment Program has expanded in two ways:

a) the current vehicle impoundment sanctions for driving while disqualified were extended to include alcohol-related offences and as well, amendments were introduced to extend the impoundment sanctions to the operators of off-road vehicles.

b) the Government introduced measures that result in the forfeiture of vehicles where an offender is convicted of a prostitution-related offence.

The Seizure and Impoundment Registry is the administrative centre where the status of each vehicle seized in the Province of Manitoba is recorded. Records maintained by the Registry include the name of the driver, the owner, the police agency, and the location of each seizure. As well, statistics are kept as to the number of hearings conducted by justices, all claims that the owner or garage keeper has applied for and the number of wrongful seizures. The Registry also maintains continuous contact with any garage keeper that stores a vehicle impounded under this legislation.

Program Summary

a) Suspension and Alcohol-Related Seizures

In November 1989, legislation was introduced to allow a peace officer to seize and impound a motor vehicle for 30 days, if operated while the driver was suspended or prohibited from driving.

Since November of 1989, the following changes to the legislation have been enacted:

- In December 1991, the impoundment period increased to 60 days for an owner considered to be a repeat offender within a two year period.
- In September 1997, the extension period for repeat offenders increased to 90 days, the administration fee increased to $75.00, and the application fee for a revocation hearing increased to $100.00.
- In December 1999, the offences of Drive Over .08 and Refuse to Provide Breath or Blood Sample were included in the seizure provisions. As well, off-road vehicles are now considered to be motor vehicles for the seizure legislation.
- On December 1, 2000 the legislation was further amended to double the impoundment periods for certain offenders. As a result, people driving with a blood alcohol level over .16 or drivers who refuse to provide a breath or blood sample will lose their vehicle for 60 days on a first offence, and 180 days for a second offence. Each subsequent offence will add another 60 days to the impoundment period. As well, the time period for calculating a repeat offence increased from two years to five.

An owner has the right to apply to a justice for a hearing to revoke the impoundment of his or her vehicle. The impoundment may be revoked if the justice is satisfied that:

a) the owner could not reasonably have been expected to know that the person driving the motor vehicle:
   - was suspended or prohibited from driving;
   - would operate or have care or control of a vehicle while their blood level was over .08;
   - would fail or refuse to provide a breath sample.

OR

b) the owner did not know that he or she was suspended or prohibited from driving.

The designate of the Minister of Justice may release the motor vehicle if he or she is satisfied that the vehicle has been wrongfully seized and impounded or if the vehicle was reported stolen at the time of the impoundment.

This legislation also gives the designate of the Minister of Justice the authority to transfer the ownership of any vehicle to the garage keeper who stores it if the vehicle remains unclaimed after the expiration of the impoundment period, and if the value of the vehicle is less than the amount owing to the garage keeper.

Upon completion of the impoundment period, the owner of the vehicle is liable for all costs related to the impoundment of the vehicle, including the costs of towing, storage and the $75 administration fee levied to offset the provincial cost to administer the program. On average, the total cost to the owner to have his or her vehicle released is approximately $400 after completion of the 30 day impoundment period or approximately $675 after completion of a 60 day impoundment period.

Under Section 242.1(12) of The Highway Traffic Act, the owner of the motor vehicle may seek to recover any costs from the person who was the driver at the time the motor vehicle was seized.

b) Prostitution-Related Seizures

In March 1999, legislation was introduced to allow a peace officer to seize and impound a motor vehicle if operated in the course of committing a prostitution-related offence under the Criminal Code.

If an owner is convicted of the offence, the vehicle is forfeited to the Province of Manitoba with the net proceeds from the sale of the vehicle used to assist groups or organizations that support or deliver programs to reduce the occurrence of prostitution-related offences.

If the driver of a seized vehicle is eligible for a program of alternative measures, the vehicle can be released subject to payment of the appropriate costs and charges.

The owner, who is not the driver, has the right to apply to a justice for a hearing to revoke the impoundment of his or her vehicle. The justice may revoke the impoundment if he or she is satisfied that the owner could not reasonably have known that the vehicle was being operated in the course of committing a prostitution-related offence.

If an owner is charged with a prostitution-related offence, he or she may apply to the designate of the Minister of Justice for the release of the vehicle on deposit of a sum of money or security for money equal to the value of the vehicle. If the owner is convicted of the charge, the deposit is forfeited to the Province of Manitoba. If the owner is not convicted of the charge, the deposit is returned.

Impoundment Program Results

a) Suspension and Alcohol-Related Seizures

During the reporting period, 3,636 vehicles were impounded, compared to 3,859 vehicles impounded during the same period in 2000-2001. This represents a one year decrease of 223 seizures or 5.8%. Of the 3,636 vehicles seized, 59 were off-road vehicles seized as a result of a suspension or an alcohol-related offence.

There are currently 57 Justices who have been appointed by the Chief Judge of the Provincial Court of Manitoba to conduct impoundment hearings. In 2001-2002, 926 owners applied for a revocation hearing and 804 or 86.8% successfully had their impoundments revoked before the expiration of the impoundment period. Of the total seizures in 2001-2002, 22% were revoked, whereas 3.3% of the total seizures were ordered to be continued.

There are currently 181 garage keepers registered with the Vehicle Impoundment Program, with approximately 102 participating on a monthly basis.

b) Prostitution-Related Seizures

During the reporting period, 74 vehicles were impounded. Of these seized vehicles, 59 or 79.7% were released as a result of the driver being eligible for the alternative measures program. Seven of the owners applied to a justice and were successful in having the vehicle released Four vehicles were released based on the owner depositing security to release the vehicle. One was released to the secured creditor, one vehicle was released as a result of no conviction being entered, and one vehicle was released in error. There is one vehicle that remains impounded pending the disposition of the criminal charges.

Since the introduction of this legislation, one vehicle and two security deposits have been forfeited to the Province of Manitoba as a result of convictions being entered. The net proceeds will be used to assist groups or organizations that support or deliver programs to reduce the occurrence of prostitution-related offences.

Tables and Supporting Charts

a) Suspension and Alcohol-Related Seizures

A summary of results for the reporting period is provided in Tables 1 to 7 and Chart 1 attached to this report. The data contained in this report is based on information forwarded by various police agencies, court offices, garage keepers and Justices throughout the Province.

Reported numbers from previous years may vary from previously issued reports as the data is continually updated with information that may be received from the various agencies after the reporting date.

Table 1

Monthly Statistics for the fiscal year ending March 31, 2002

Month	Total Vehicles Seized	Vehicles Claimed		Vehicles Disposed / Unclaimed	
April 2001	307	264	86%	43	14%
May 2001	401	307	77%	94	23%
June 2001	376	310	82%	66	18%
July 2001	321	254	79%	67	21%
August 2001	331	247	75%	84	25%
September 2001	339	259	76%	80	24%
October 2001	264	193	73%	71	27%
November 2001	282	202	72%	80	28%
December 2001	261	181	69%	80	31%
January 2002	255	164	64%	91	36%
February 2002	241	117	49%	124	51%
March 2002	258	43	17%	215	83%
Total Vehicles Seized	**3636**	**2541**	**70%**	**1095**	**30%**

Table 2

Status of Vehicles Seized

Vehicles Claimed		2541
Vehicles Transferred		75
Vehicles Auctioned		133
Vehicles Released		101
Vehicles Unclaimed		
60 days & under	339	
61 to 90 days	74	
91 days & over	373	
Total		786
Total Number of Vehicles Seized		**3636**

Table 3

Age Analysis

This table represents data for the fiscal year April 1, 2001 to March 31, 2002.

Age of Driver	April 1, 2001	March 31, 2002
16 to 20	616	16.94%
21 to 25	708	19.47%
26 to 30	529	14.55%
31 to 35	466	12.82%
36 to 40	437	12.02%
41 to 45	328	9.02%
46 to 50	236	6.49%
51 to 55	146	4.02%
56 to 60	64	1.76%
61 to 65	42	1.16%
66 to 70	32	0.88%
71 to 75	20	0.55%
76 to 80	4	0.11%
81 plus	8	0.22%
	3636	**100.00%**

Chart 1

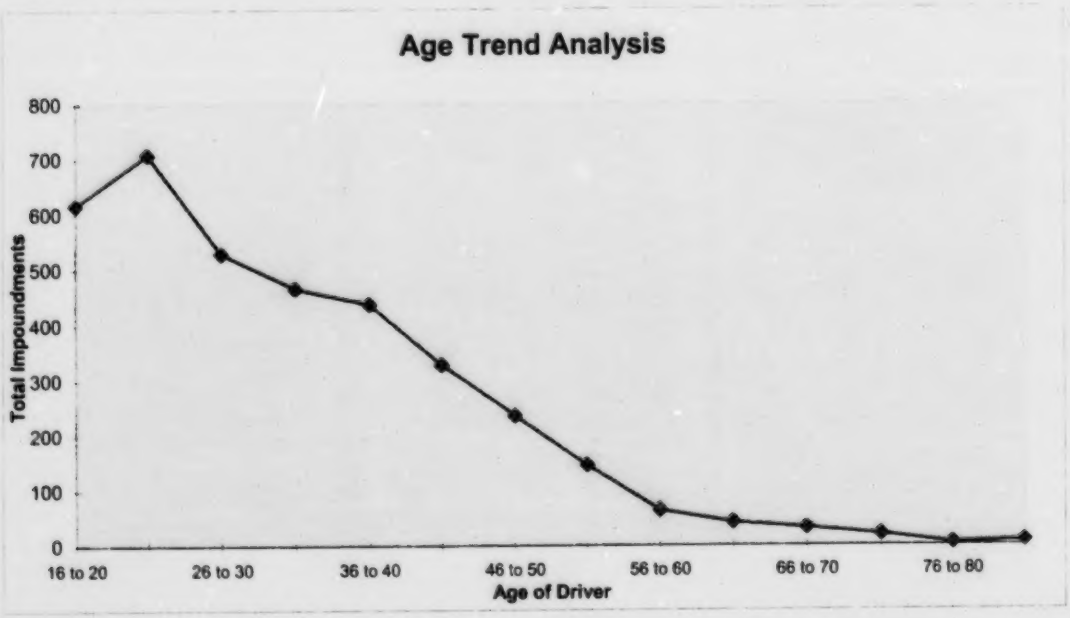

Table 4

Seizures and Applications for Orders of a Justice Section 242.1(4) of The Highway Traffic Act

(A hearing for the revocation of an impoundment of a motor vehicle)

This table represents data for the fiscal year April 1, 2001 to March 31, 2002.

Region	Total Vehicles Seized		Applications to Revoke (% - total seizures)		Seizures Revoked (% - total applications)		Seizures Continued (% - total applications)	
Winnipeg	1473	41%	568	39%	489	86%	79	14%
Regional	2163	59%	358	17%	315	88%	43	12%
Total	**3636**	**100%**	**926**	**25%**	**804**	**87%**	**122**	**13%**

The total number of applications to revoke represents 25% of the total seizures for the reporting period.

Successful revocations represents 87% of all applications

Table 5

Extension of vehicle Impoundment for Repeat Offenders Sections 242.2(7.1.1) & (7.1.2) of The Highway Traffic Act

Month	Extensions Issued	Extensions Completed	Impoundment Revocations
April 2001	29	29	0
May 2001	27	26	1
June 2001	38	35	3
July 2001	27	25	2
August 2001	34	28	6
September 2001	30	26	4
October 2001	32	28	4
November 2001	38	34	4
December 2001	21	17	4
January 2002	32	30	2
February 2002	24	23	1
March 2002	33	29	4
TOTAL	**365**	**330**	**35**

On December 1, 1991, legislation was proclaimed to extend the impoundment period from 30 to 60 days for owners with more than one occurrence within a two-year period.

On September 1, 1997, the legislation was amended to increase the extended impoundment period from 60 to 90 days for the owner who has had a previous occurrence.

On December 1, 2000, the legislation was amended to allow for increased impoundment periods for repeat offenders. Where the legislation previously allowed for owners to receive an extended impoundment period of 90 days, regardless of how many prior offences, the amendments now allow for 60 days to be added to the initial impoundment period for each subsequent offence that an owner has.

Of the total number of vehicles seized in the 2001-2002 fiscal year, 10% were impounded for an additional period under this section of The Highway Traffic Act. In this fiscal year, the number of extensions issued has increased by 7.7% or 26 seizures as compared to the previous fiscal year.

Note: Since proclamation of this legislation, a total of 3,027 extensions were issued from the Impoundment Registry. This figure represents 12.6% of the 23,929 seizures issued over the period of the legislation allowing extensions.

Table 6

Number of Offenders - Repeat Owners

This table represents the number of owners who have had a vehicle seized and impounded on two or more occasions. Effective December 1, 2000, subsequent offences that occur within a five year period are recorded as a repeat offence.

This data includes owners who were either the driver of the vehicle or who had, on more than one occasion, allowed their vehicle to be operated by a different driver.

Owners	Number of Offenders	Number of Vehicles Involved	Vehicles Driven by Owner	Vehicles Driven by Another
2x repeaters	782	1564	764	800
3x repeaters	110	330	121	209
4x repeaters	22	88	32	56
5x repeaters	5	25	8	17
6x repeaters	1	6	5	1
7x repeaters	1	7	0	7
8x repeaters	1	8	0	8
9x repeaters	1	9	0	9
30x repeaters*	1	30	0	30
Total	**924**	**2067**	**930**	**1137**

Note: As the legislation was intended to focus on the owner of the vehicle as the responsible party, the analysis concentrates on repeat owner statistics. During the same reporting period 2,514 vehicles were seized in which the driver of the vehicle had been involved in a previous impoundment either as the owner of a seized vehicle or as the driver of a vehicle owned by another party.

Repeat drivers account for 24.2% of all seizures over the same period.
Repeat owners account for 19.9% of all seizures over the same period.

*This repeat offender represents a car rental business, not an individual person.

Table 7

Financial Report

Note: This report includes revenue received from vehicle seizures as a result of suspension and alcohol-related offences, as well as prostitution-related offences.

Revenue	April 1, 2001 to March 31, 2002	
Provincial Fees Collected:		
Suspension/Alcohol-Related Offences	$223,001.13	
Prostitution-Related Offences	$6,000.00	
Total Revenue		**$229,001.13**
Claims/Refunds:		
Suspension/Alcohol-Related Offences		
-Provincial fees refunded	($150.00)	
-Claims settled for direct costs	($187.75)	
Prostitution Related Offences		
-Provincial fees refunded	0.00	
-Claims settled for direct costs	($1,645.00)	
Total Costs		**($1,982.75)**
Net Revenue		**$227,018.38**